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(v) A quiet room (with at least one bed), which functions to isolate participants who become ill or disruptive, or who require rest, privacy, or observation, must include a bed. It should be separate from activity areas, near a restroom, and supervised.

(vi) Bathing facilities adequate to facilitate bathing of participants with functional impairments.

(vii) Toilet facilities and bathrooms easily accessible to people with mobility problems, including participants in wheelchairs. There must be at least one toilet for every eight participants. The toilets must be equipped for use by persons with limited mobility, easily accessible from all program areas, *i.e.*, preferably within 40 feet from that area, designed to allow assistance from one or two staff, and barrier-free.

(viii) Adequate storage space. There should be space to store arts and crafts materials, personal clothing and belongings, wheelchairs, chairs, individual handiwork, and general supplies. Locked cabinets must be provided for files, records, supplies, and medications.

(ix) An individual room for counseling and interviewing participants and family members.

(x) A reception area.

(xi) An outside space that is used for outdoor activities that is safe, accessible to indoor areas, and accessible to those with a disability. This space may include recreational space and garden area. It should be easily supervised by staff.

(c) Furnishings must be available for all participants. This must include functional furniture appropriate to the participants' needs. Furnishings must be attractive, comfortable, and home-like, while being sturdy and safe.

(d) *Participant call system.* The coordinator's station must be equipped to receive participant calls through a communication system from—

(1) Clinic rooms; and

(2) Toilet and bathing facilities.

(e) *Other environmental conditions.* The program management must provide a safe, functional, sanitary, and comfortable environment for the participants, staff and the public. The program management must—

(1) Establish procedures to ensure that water is available to essential areas if there is a loss of normal water supply;

(2) Have adequate outside ventilation by means of windows, or mechanical ventilation, or a combination of the two;

(3) Equip corridors, when available, with firmly-secured handrails on each side; and

(4) Maintain an effective pest control program so that the facility is free of pests and rodents.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

§ 52.210 Administration.

An adult day health care program must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well being of each participant.

(a) *Governing body.* (1) The State must have a governing body, or designated person functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the program; and

(2) The governing body or State official with oversight for the program appoints the adult day health care program administrator who is:

(i) A qualified health care professional experienced in clinical program management and, if required by the State, certified as a Certified Administrator in Adult Day Health Care; and

(ii) Responsible for the operation and management of the program including:

(A) Documentation of current credentials for each licensed independent practitioner employed by the program;

(B) Review of the practitioner's record of experience;

(C) Assessment of whether practitioners with clinical privileges act within the scope of privileges granted; and

(iii) Awareness of local trends in community adult day health care and other services, and participation in area adult day health care organizations.

(b) *Disclosure of State agency and individual responsible for oversight of facility.* The State must give written notice to

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the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, at the time of the change, if any of the following change:

(1) The State agency and individual responsible for oversight of a State home facility;

(2) The State adult day health care program administrator; or

(3) The State employee responsible for oversight of the State home adult day health care program if a contractor operates the State program.

(c) *Required information.* The program management must submit the following to the director of the VA medical center of jurisdiction as part of the application for recognition and thereafter as often as necessary to be current:

(1) The copy of the legal and administrative action establishing the State-operated facility (e.g., State laws);

(2) Site plan of facility and surroundings;

(3) Legal title, lease, or other document establishing the right to occupy the facility;

(4) Organizational charts and the operational plan of the adult day health care program;

(5) The number of the staff by category indicating full-time, part-time and minority designation, annually;

(6) The number of adult day health care participants who are veterans and non-veterans, the number of veterans who are minorities and the number of non-veterans who are minorities, annually;

(7) Annual State Fire Marshall's report;

(8) Annual certification from the responsible State home showing compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (VA Form 10-0143A set forth at 38 CFR 58.14);

(9) Annual certification for Drug-Free Workplace Act of 1988 (41 U.S.C. 701-707) (VA Form 10-0143 set forth at 38 CFR 58.15);

(10) Annual certification regarding lobbying in compliance with 31 U.S.C. 1352 (VA Form 10-0144 set forth at 38 CFR 58.16);

(11) Annual certification of compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) as effectuated in 38 CFR part 18 (VA Form 10-0144A located at 38 CFR 58.17);

(d) *Percentage of veterans.* At least 75 percent of the program participants must be eligible veterans except that the veteran percentage need only be more than 50 percent if the facility was acquired, constructed, or renovated solely with State funds. All non-veteran participants must be veteran-related family members or gold star parents of veterans.

(e) *Management contract facility.* If a program is operated by an entity contracting with the State, the State must assign a State employee to monitor the operations of the facility. The State employee may also monitor other levels of care at a colocated facility, but must monitor the adult day health care facility and any colocated facility on a full-time onsite basis.

(f) *Licensure.* The facility and program management must comply with applicable State and local licensure laws.

(g) *Staff qualifications.* (1) The program management must employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of these requirements. Professional disciplines involved in participant care must include registered nurses, program assistants, physicians, social workers, rehabilitation therapists, dietitians, and therapeutic activity therapists and pharmacists. Other disciplines may be considered depending upon the participant and/or program needs.

(2) Professional staff must be licensed, certified, or registered in accordance with applicable State laws.

(3) The staff-participant ratio must be sufficient in number and skills (at least one staff to 4 to 6 participants) to ensure compliance with the standards of this part. There must be at least two responsible persons (paid staff members) at the adult day health care center at all times when there are two or more participants in attendance.

(4) Persons counted in the staff to participant ratio must spend at least 70 percent of their time in direct service with participants.

(5) All professional team members will serve in the role of case manager for designated participants.

(6) All personnel, paid and volunteer, will be provided appropriate training to maintain the knowledge and skills required for the participant needs.

(h) *Use of outside resources.* (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the program management must have that service furnished to participants by a person or agency outside the facility under a written agreement described in paragraph (h)(2) of this section.

(2) Agreements pertaining to services furnished by outside resources must specify in writing that the program management assumes responsibility for—

(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a program; and

(ii) The timeliness of the services.

(i) *Medical director.* (1) The program management must provide a primary care physician to serve as medical director and a consultant to the interdisciplinary program team.

(2) The medical director is responsible for:

(i) Participating in establishing policies, procedures, and guidelines to ensure adequate, comprehensive services;

(ii) Directing and coordinating medical care in the program;

(iii) Ensuring continuous physician coverage to handle medical emergencies;

(iv) Participating in managing the environment by reviewing and evaluating incident reports or summaries of incident reports, identifying hazards to health and safety, and making recommendations to the adult day health care program administrator; and

(v) Monitoring employees' health status and advising the program administrator on employee health policies.

(3) The medical director may also provide hands-on assessment and/or treatment if authorized by the participant's primary care provider. In programs where a medical director is available to act as a member of the team and authorizes care, information

concerning the care provided must be shared with the primary care physician who continues to provide the ongoing medical care.

(4) The program management must have written procedures for handling medical emergencies. The procedures must include, at least:

(i) Procedures for notification of the family;

(ii) Procedures for transportation arrangements;

(iii) Provision for an escort, if necessary; and

(iv) Procedures for maintaining a portable basic emergency information file for each participant that includes:

(A) Hospital preference;

(B) Physician of record and telephone number;

(C) Emergency contact (family);

(D) Insurance information;

(E) Medications/allergies;

(F) Current diagnosis and history; and

(G) Photograph for participant identification.

(j) *Required training of program assistants.* (1) Program assistants must have a high school diploma, or the equivalent, and must have at least one year of experience in working with adults in a health care setting. Program assistants also must complete the National Adult Day Services Association training course or complete equivalent training.

(2) The program management must not use any individual working in the program as a program assistant whether permanent or not unless:

(i) That individual is competent to provide appropriate services; and

(ii) That individual has completed training or is certified by the National Adult Day Services Association as a certified Program Assistant in Adult Day Services.

(3) Verification. Before allowing an individual to serve as a nurse aide or program assistant, program management must verify that the individual has successfully completed a training and competency evaluation program. Facilities must follow up to ensure that such an individual actually becomes certified, if available in the State.

(4) Multi-State registry verification. Before allowing an individual to serve as a nurse aide or program assistant, program management must seek information from every State registry established under HHS regulations at 42 CFR 483.156 which the facility believes may include information on the individual.

(5) Required retraining. If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(6) Regular in-service education. The program management must complete a performance review of every nurse aide or program assistant at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must—

(i) Be sufficient to ensure the continuing competence of nurse aides or program assistants, but must be no less than 12 hours per year;

(ii) Address areas of weakness as determined in program assistants' performance reviews and address the special needs of participants as determined by the program staff; and

(iii) For program assistants or nurse aides providing services to individuals with cognitive impairments, address the care of the cognitively impaired.

(k) *Proficiency of program assistants.* The program management must ensure that program assistants or nurse aides are able to demonstrate competency in skills and techniques necessary to care for participants' needs, as identified through participant assessments, and described in the plan of care.

(l) *Laboratory and radiology results.* The program management must—

(1) Obtain laboratory or radiology results from the participant's primary physician to support the needs of its participants.

(2) Assist the participant and/or family/caregiver in making transportation arrangements to and from the source of

laboratory or radiology services, if the participant needs assistance.

(3) File in the participant's clinical record laboratory or radiology reports that are dated and contain the name and address of the testing laboratory or radiology service.

(m) *Participant records.* (1) The facility management must maintain clinical records on each participant in accordance with accepted professional standards and practices that are—

(i) Complete;

(ii) Accurately documented;

(iii) Readily accessible; and

(iv) Systematically organized.

(2) Clinical records must be retained for—

(i) The period of time required by State law; or

(ii) Five years from the date of discharge if there is no requirement in State law.

(3) The program management must safeguard clinical record information against loss, destruction, or unauthorized use.

(4) The program management must keep confidential all information contained in the participant's records, regardless of the form or storage method of the records, except when release is required by—

(i) Transfer to another health care institution;

(ii) Law;

(iii) A third-party payment contract;

(iv) The participant; or

(v) The participant's legal representative.

(5) The clinical record must contain—

(i) Sufficient information to identify the participant;

(ii) A record of the participant's assessments;

(iii) The plan of care and services provided;

(iv) The results of any pre-enrollment screening conducted by the State; and

(v) Progress notes.

(n) *Quality assessment and assurance.*

(1) Program management must maintain a quality improvement program and a quality improvement committee consisting of—

(i) A registered nurse;

(ii) A medical director designated by the program; and

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(iii) At least three other members of the program's staff.

(2) The quality improvement committee—

(i) Must implement a quality improvement plan for the evaluation of its operation and services and review and revise annually; and

(ii) Must meet at least quarterly to identify quality of care issues; and

(iii) Must develop and implement appropriate plans of action to correct identified quality deficiencies; and

(iv) Must ensure that identified quality deficiencies are corrected within an established time period.

(3) The VA Under Secretary for Health may not require disclosure of the records of such committee unless such disclosure is related to the compliance with the requirements of this section.

(o) *Disaster and emergency preparedness.* (1) The program management must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, bomb threats, and missing participants.

(2) The program management must train all employees in emergency procedures when they begin to work in the program, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

(p) *Transfer procedure.* (1) The program management must have in effect a written transfer procedure that reasonably assures that—

(i) Participants will be transferred from the adult day health care program to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by a physician; and

(ii) Medical and other information needed for care and treatment of participants will be exchanged between the institutions.

(2) The transfer must be with a hospital sufficiently close to the adult day health care program to make transfer feasible.

(q) *Compliance with Federal, State, and local laws and professional standards.* The program management must operate and provide services in compliance with all applicable Federal, State, and

local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility. This includes the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.) and the Cash Management Improvement Acts of 1990 and 1992 (31 U.S.C. 3335, 3718, 3720A, 6501, 6503).

(r) *Relationship to other Federal regulations.* In addition to compliance with the regulations set forth in this subpart, the program must meet the applicable provisions of other Federal laws and regulations, including but not limited to, those pertaining to non-discrimination on the basis of race, color, national origin, handicap, or age (38 CFR part 18); protection of human subjects of research (45 CFR part 46), section 504 of the Rehabilitation Act of 1993 (29 U.S.C. 794); Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707); restrictions regarding lobbying (31 U.S.C. 1352); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination or suspension of, or the refusal to grant or continue payment with Federal funds.

(s) *Intermingling.* A facility recognized as a State home for providing adult day health care may only provide adult day health care in the areas of the facility recognized as a State home for providing adult day health care.

(t) *VA management of State veterans homes.* Except as specifically provided by statute or regulations, VA employees have no authority regarding the management or control of State homes providing adult day health care.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900–0160)

§ 52.220 Transportation.

Transportation of participants to and from the adult day health care facility must be a component of the overall program.

(a)(1) Except as provided in paragraph (a)(2) of this section, the adult day health care program management